

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )  
Plaintiff, ) CIVIL ACTION NO.  
v. )  
MICRO ENCODER, INC., ) COMPLAINT  
Defendant. ) JURY DEMAND

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age and to provide appropriate relief to Brinkley Barr. The Equal Employment Opportunity Commission ("EEOC") alleges that Micro Encoder, Inc. ("Defendant") unlawfully refused to hire Mr. Barr for a vacant engineer position because of his age, despite being qualified for the job.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Washington.

## PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, Defendant (the "Employer") has continuously been a corporation doing business in the State of Washington and has continuously had at least 20 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

6. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

## STATEMENT OF CLAIMS

7. On or about January 20, 2004, the Defendant Employer engaged in unlawful employment practices at its Kirkland, Washington facility, in violation of Section 4(a)(1) of the ADEA, 29 U.S.C. § 623(a)(1). The practices include failing or

refusing to hire Brinkley Barr because of his age, 50.

8. The effect of the practices complained of in paragraph 7 above has been  
to deprive Mr. Barr of equal employment opportunities and otherwise adversely affect  
his status as an applicant for employment because of his age.

9. The unlawful employment practices complained of in paragraphs 7 and 8  
above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers,  
successors, assigns and all persons in active concert or participation with it, from failing  
or refusing to hire individuals because of their age and any other employment practice  
which discriminates on the basis of age against individuals 40 years of age and older.

B. Order Defendant Employer to institute and carry out policies, practices  
and programs which provide equal employment opportunities for individuals 40 years of  
age and older, and which eradicate the effects of its past and present unlawful  
employment practices.

C. Grant a judgment requiring Defendant Employer to pay appropriate back  
wages in an amount to be determined at trial, an equal sum as liquidated damages, and  
prejudgment interest to Mr. Barr whose wages are being unlawfully withheld as a result  
of the acts complained of above.

D. Order Defendant Employer to make whole Mr. Barr who is adversely  
affected by the unlawful practices described above, by providing the affirmative relief  
necessary to eradicate the effects of its unlawful practices, including but not limited to  
front pay.

I. Grant such further relief as the Court deems necessary and proper in the

1 public interest.

2 J. Award the Commission its costs of this action.

3 JURY TRIAL DEMAND

4 The Commission requests a jury trial on all questions of fact raised by its  
5 complaint.

6 DATED this 30th day of September, 2004.

7 A. LUIS LUCERO, JR.  
8 Regional Attorney

ERIC S. DREIBAND  
General Counsel

9 JOHN F. STANLEY  
10 Acting Supervisory Trial Attorney

JAMES L. LEE  
Deputy General Counsel

11 WESLEY KATAHIRA  
Senior Trial Attorney

GWENDOLYN YOUNG REAMS  
Associate General Counsel

12 BY: /S/ A. Luis Lucero

13 EQUAL EMPLOYMENT  
14 OPPORTUNITY COMMISSION  
Seattle District Office  
15 909 First Avenue, Suite 400  
Seattle, Washington 98104  
16 Telephone (206) 220-6918  
Wesley.Katahira@eeoc.gov

Office of the General Counsel  
1801 "L" Street NW  
Washington, D.C. 20507

18 Attorneys for Plaintiff